

STATE OF MICHIGAN  
DEPARTMENT OF LABOR & ECONOMIC GROWTH  
OFFICE OF FINANCIAL AND INSURANCE SERVICES

Before the Commissioner of the Office of Financial and Insurance Services

In the Matter of:

Mortgage Lenders Network USA, Inc.  
213 Court Street, Eleventh Floor  
Middletown, Connecticut 06457,

Enforcement Case No. 07-4921  
*Corrected as to Respondent's Name*

License No. FL – 0929  
Registration No. SR – 0017

Mitchell L. Heffernan, President,

Respondent.

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Issued and Entered,  
This 22<sup>nd</sup> day of January, 2007,  
By Richard D. Lavolette,  
Chief Deputy Commissioner

ORDER TO CEASE AND DESIST FROM VIOLATING THE MORTGAGE BROKERS,  
LENDERS, AND SERVICERS LICENSING ACT,  
ORDER FOR RESTITUTION,  
ORDER TO FILE SPECIAL REPORT,  
and  
NOTICE OF OPPORTUNITY FOR ADMINISTRATIVE HEARING

I.  
ORDER TO CEASE AND DESIST FROM VIOLATING THE MORTGAGE BROKERS,  
LENDERS, AND SERVICERS LICENSING ACT,  
ORDER FOR RESTITUTION, and  
ORDER TO FILE SPECIAL REPORT

The Commissioner of the Office of Financial and Insurance Services (“Commissioner”) having been statutorily charged with the responsibility and authority to administer and enforce the Mortgage Brokers, Lenders, and Servicers Licensing Act (“MBLSLA”), 1987 PA 187, as amended, MCL 445.1651 *et seq.*, and the Secondary Mortgage Loan Act (“SMLA”), 1981 PA 125, as amended, MCL 493.51 *et seq.*, pursuant to provisions therein; and,

The Commissioner having been granted general supervisory power and control over all mortgage brokers, mortgage lenders, and mortgage services doing business in the State of Michigan pursuant to provisions of the MBLSLA or SMLA; and,

Mortgage Lenders Network USA, Inc. ("Respondent") having been granted a first mortgage lender and servicer license by the commissioner on March 31, 1997, pursuant to provisions of the MBLSLA, and Respondent having been granted a secondary mortgage lender and servicer registration by the commissioner on October 27, 1997, pursuant to provisions of the SMLA; and,

The Commissioner having received a consumer complaint against Respondent alleging that Respondent had failed to fund the consumer's purchase money first mortgage loan in accordance with a written commitment after closing; and,

The Commissioner having conducted a full and thorough investigation of such complaint pursuant to Section 13(1) of the MBLSLA, MCL 445.1663(1); and,

The Commissioner having made the following FINDINGS and CONCLUSIONS from such investigation:

1. Respondent closed the consumer's purchase money residential mortgage loan and failed to fund the loan after closing in accordance with a written commitment.
2. On January 12, 2007, Office of Financial and Insurance Services staff ("OFIS Staff") contacted Respondent in relation to the investigation of the consumer complaint and learned from Respondent that:
  - a. On or about December 29, 2006, Respondent's ability to use its warehouse line of credit was suspended and, as a result, Respondent was unable to fund its mortgage loans.
  - b. Respondent had failed to timely fund at least 14 closed mortgage loans in accordance with a written commitment to make a mortgage loan on Michigan residential property following closing.
  - c. Respondent provided OFIS Staff with a list of the 14 closed and unfunded Michigan mortgage loans.
  - d. Of those known 14 closed and unfunded residential mortgage loans, 12 were first mortgage loans and 2 were secondary mortgage loans.

3. Section 22(a) and (k) of the MBLSLA, MCL 445.1672(a) and (k), provides as follows:

It is a violation of this act for a licensee or registrant to do any of the following:

(a) Fail to conduct the business in accordance with law, this act, or a rule promulgated or order issued under this act.

\* \* \*

(k) Fail to make a mortgage loan in accordance with a written commitment to make a mortgage loan issued to, and accepted by, a person when the person has timely and completely satisfied all the conditions of the commitment before the expiration of the commitment.

4. Section 24(2)(h) of the SMLA, MCL 493.74(2)(h), provides as follows:

It is a violation of this act for a licensee or registrant to do any of the following:

\* \* \*

(h) Fail to make a mortgage loan in accordance with a written commitment to make a mortgage loan issued to, and accepted by, a person when the person has timely and completely satisfied all the conditions of the commitment before the expiration of the commitment.

5. Section 16(1) of the MBLSLA, MCL 445.1666(1), provides as follows:

(1) After an investigation has been conducted pursuant to section 13, and prior to holding a hearing under section 18, the commissioner may order a person to cease and desist from a violation of this or a rule promulgated or an order issued under this act.

6. Section 29(2)(c) of the MBLSLA, MCL 445.1679(2)(c), provides as follows:

(2) If the commissioner finds that a licensee or registrant has violated this act or the rules promulgated under this act, the commissioner may do 1 or more of the following:

(c) Require the licensee or registrant or a person who controls the licensee or registrant to make restitution to each injured individual, if the commissioner finds that the violation of this act or a rule promulgated under this act resulted in an injury to 1 or more individuals.

7. Section 21(3) of the MBLSLA, MCL 445.1671(3), provides as follows:

(3) On or before a date to be determined by the commissioner, a licensee or registrant shall annually file with the commissioner a report giving information, as required by the commissioner, concerning the business and operations of the licensee or registrant under this act during the immediately preceding calendar year. In addition, the commissioner may require a licensee or registrant to file special reports as the commissioner considers reasonably necessary for the proper supervision of licensees or registrants under this act. Reports required pursuant to this section shall be in the form prescribed by the commissioner, signed, and affirmed. A person who willfully and knowingly subscribes and affirms a false statement in a report required pursuant to this subsection is guilty of a felony, punishable by imprisonment for not more than 15 years.

8. It is a violation of the MBLSLA for a licensee or registrant to fail to comply with the law or the MBLSLA and it is a violation for a licensee or registrant to fail to fund a first mortgage loan in accordance with a written commitment.
9. It is a violation of the SMLA for a licensee or registrant to fail to fund a secondary mortgage loan in accordance with a written commitment.
10. Respondent's failure to fund 12 first mortgage loans in accordance with a written commitment is a violation of Section 22(k) of the MBLSLA, MCL 445.1672(k).
11. Respondent's failure to fund 2 secondary mortgage loans in accordance with a written commitment is a violation of Section 24(2)(h) of the SMLA, MCL 493.74(2)(h), and, therefore, a violation of Section 22(a) of the MBLSLA, MCL 445.1672(a).
12. The Commissioner is authorized pursuant to Section 16(1) of the MBLSLA, MCL 445.1661(1), to order a person to cease and desist from a violation of the MBLSLA.
13. The Commissioner is authorized pursuant to Section 29(2)(c) of the MBLSLA, MCL 445.1679(2)(c), to order a licensee or registrant to make restitution to an individual that was injured by the licensee's or registrant's violation of the MBLSLA.

14. The Commissioner is authorized pursuant to Section 21(3) of the MBLSLA, MCL 445.1671(3), to order a licensee or registrant to make a special report that the commissioner considers reasonably necessary for the proper supervision of licensees or registrants under this act.

The Commissioner having concluded and determined from her investigation of the consumer's complaint against Respondent and all relevant facts and circumstances thereof, that Respondent violated Section 22(a) and (k) of the MBLSLA and, therefore, Respondent shall be ordered to 1) cease and desist from violating the MBLSLA, 2) make restitution to individuals injured by Respondent's violation(s), and 3) file a special report with the commissioner.

The Commissioner being fully advised in the premises; NOW THEREFORE,

IT IS ORDERED that Respondent shall immediately CEASE AND DESIST from violating the MBLSLA as set forth above.

IT IS FURTHER ORDERED that Respondent shall immediately place with one or more qualified lender(s), with no loss to applicants, the Respondent's entire portfolio of Michigan Residential mortgage loans which were closed by Respondent but not funded in accordance with Respondent's written commitment to make the mortgage loan. In the event that the Respondent is unable to find a qualified lender willing to fund, or close, the mortgage loan under the same terms and conditions extended by Respondent, Respondent shall either independently fund the mortgage loan under such terms and conditions or buy down the mortgage loan offered by the qualified lender so that the applicant does not incur a loss as a result of such placement.

IT IS FURTHER ORDERED that in any instance in which Respondent failed to fund a loan closed by Respondent and in which the consumer, prior to the effective date of this ORDER, obtained funding through an alternate lender, Respondent shall make RESTITUTION to each consumer in the amount necessary to put the consumer in the same position as if Respondent had funded the residential mortgage loan under the terms and conditions agreed upon at the closing of the loan.

IT IS FURTHER ORDERED that within three (3) days of the effective date of this ORDER, Respondent shall file with the Commissioner a Special Report which, at a minimum, provides, the name, address, and telephone number of each Michigan consumer that closed a residential mortgage with Respondent that Respondent failed to timely fund after closing; the

terms under which each of the closed and unfunded residential mortgage loans closed; the actual closing date; the loan number; the amount of all prepaid loan fees paid by the consumer; the funding status of each residential mortgage loan that Respondent closed for a Michigan consumer and failed to timely fund; and, if the Michigan consumer whose residential mortgage loan was closed and unfunded by Respondent subsequently obtained a residential mortgage loan from alternate lender, the terms under which the residential mortgage loan was subsequently funded, and the name and contact information of the person at the alternate lender familiar with Respondent's submitted loans.

IT IS FURTHER ORDERED that an administrative hearing shall be scheduled in this matter only if Respondent timely requests an administrative hearing in accordance with the instructions set forth in Section II of this ORDER entitled Notice of Opportunity for an Administrative Hearing. If no administrative hearing is requested within 30 days of the effective date of this ORDER, Respondent's right to an administrative hearing shall be deemed waived and relinquished.

IT IS FURTHER ORDERED that this ORDER shall be and is effective immediately upon the date in which it is entered as shown in the caption hereof, and shall remain in effect unless terminated, modified, set aside, or suspended in writing by the commissioner or by order of the court.

The Commissioner specifically retains jurisdiction of the matter contained herein to issue such further order or orders as she may deem just, necessary, or appropriate to assure compliance with the law and protect the public interest.

IT IS SO ORDERED.

  
Richard D. Lavolette  
Chief Deputy Commissioner

II.

NOTICE OF OPPORTUNITY FOR AN ADMINISTRATIVE HEARING

Section 16(2) of the MBLSLA, MCL 445.1666(2), provides as follows:

(2) A person ordered to cease and desist shall be entitled to a hearing before the commissioner if a written request for a hearing is filed with the commissioner not more than thirty days after the effective date of the order. A hearing shall be conducted in accordance with the provisions of the Administrative Procedures Act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 – 24.328 of the Michigan Compiled Laws.

Within thirty (30) days after the effective date of this Order, you must file a written request for a hearing if you desire to contest the Order. If you send this request for hearing by U.S. Postal Service, it must be sent to:

Michigan Office of Financial and Insurance Services  
Office of General Counsel  
Attn: Elizabeth Thompson, Hearings Coordinator  
P.O. Box 30220  
Lansing, Michigan 48909

If you send the request for hearing by an alternate mail service that requires an address other than a P.O. Box, or if you wish to deliver the request for hearing personally, it must be sent, or delivered, to:

Michigan Office of Financial and Insurance Services  
Office of General Counsel  
Attn: Elizabeth Thompson, Hearings Coordinator  
611 West Ottawa Street, Third Floor  
Lansing, Michigan 48933

If you fail to timely file a request for a hearing, your right to a hearing under Section 16(2) will be deemed waived and relinquished.